

REMARKS

This application has been reviewed in light of the final Office Action dated April 27, 2004. In view of the foregoing amendments and the following remarks, favorable reconsideration and withdrawal of the rejections set forth in the Office Action are respectfully requested.

Claims 1, 3-15, 17-29, 31-39, 42 and 44-52 are pending. Claims 1, 4, 7, 8, 12, 15, 21, 22, 24, 26, 29, 32, 35, 36, 42, 45, 48 and 49 have been amended. Support for the claim changes can be found in the original disclosure, and therefore no new matter has been added. Claims 1, 15, 29 and 42 are in independent form.

Claims 7, 21, 35 and 48 were not addressed in the Office Action. Applicants note with appreciation that, as confirmed by the Examiner in a telephone conversation with Applicants' undersigned representative after issuance of the Office Action, those claims are deemed to be allowable if rewritten so as not to depend from a rejected claim. Those claims have not been so rewritten because, for at least the reasons given below, their respective base claims are believed to be allowable.

Claims 1, 3-6, 8, 10, 11, 13-15, 17-20, 22, 24, 25, 27-29, 31-34, 36, 38, 39, 42, 44-47, 49, 51 and 52 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,659,342 (*Lund et al.*) in view of U.S. Patent No. 4,791,435 (*Smith et al.*). Claims 9, 12, 23, 26, 37 and 50 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Lund et al.* in view of *Smith et al.* and further in view of U.S. Patent No. 6,299,277 (*Fujii*). In response, while not conceding the propriety of the rejections, independent Claims 1, 15, 29 and 42 have been amended. Applicants submit that as amended, those claims are allowable for at

least the following reasons.

Independent Claim 1 recites, *inter alia*, that an ejection is performed through an ejecting portion one or two times, selectively, in one preliminary ejecting operation. Each of independent Claims 15, 29 and 42 recites a feature similar or identical to this feature recited in Claim 1.

Lund et al. relates to an on-page ink jet printhead spitting system. Applicants submit that, as the Office Action (page 3) is understood to concede, nothing in *Lund et al.* would teach or suggest the above-noted feature of Claim 1.

Smith et al. relates to thermal inkjet printhead temperature control. The Office Action (page 3) cites col. 1, lines 22-27 of *Smith et al.* as disclosing “a service operation in a thermal inkjet printhead wherein two preliminary ejections are performed through a nozzle in one preliminary ejection operation to clear viscous plugs from the nozzle and control the temperature at a desired value.” However, Applicants respectfully disagree that *Smith et al.* teaches or suggests what the Office Action alleges. Specifically, col. 1, lines 20-28 of *Smith et al.* state:

One prior art approach taken in dealing with this problem has been to provide a spittoon into which ink drops are ejected prior to commencing printing. The purpose of this is twofold. First such ink drop ejection tends to clear viscous plugs from the nozzle of the thermal inkjet printhead and second, this preliminary use of the printhead provides a warm up interval, hopefully to achieve a printhead temperature at or near a desired temperature for printing purposes.

The above-quoted portion of *Smith et al.* teaches two purposes of providing a spittoon into which ink drops are ejected prior to commencing printing. One purpose is to clear viscous plugs and another purpose is to provide a warm-up interval in an attempt to achieve a desired printhead temperature. Nothing in the above-quoted portion of *Smith et al.* suggests performing an ejection

through an ejecting portion one or two times, selectively, in a single preliminary ejecting operation. Indeed, while *Smith et al.* mentions firing (plural) ink drops into a spittoon, nothing in that document is seen to suggest performing a specific number of ejections, selectively. Applicants submit that nothing in *Smith et al.* would teach or suggest that an ejection is performed through an ejecting portion one or two times, selectively, in one preliminary ejecting operation, as recited in Claim 1.

In the Response to Arguments in the Office Action (pages 6 and 7), the Examiner states that “the applicant acknowledged that Smith disclosed at least one ejection operation to clear viscous pugs and to warm up the printhead.” However, Applicants did not state what the Examiner alleges. Rather, Applicants merely stated that *Smith et al.* relates to methods of overcoming clogging in ink jet nozzles and that *Smith et al.* makes it clear that the preliminary use of the print head is for clearing viscous plugs from the nozzle and to bring the print head to a desired temperature (page 15 of the Amendment filed on February 6, 2004).

Further, even if *Smith et al.* did disclose “at least one ejection operation to clear viscous pugs and to warm up the printhead,” this does not mean or imply that *Smith et al.* disclosed performing an ejection one or two times, selectively, in a single ejection operation. In that regard, the Office Action appears to conflate an “ejection operation” with an “ejection.” However, as indicated by Applicants’ claims, according to which a single ejection operation can include one or two ejections, selectively, these terms are distinct as used in Applicants’ claims.

Since neither *Lund et al.* nor *Smith et al.*, whether taken singly or in combination (even assuming, for the sake of argument, that such combination were permissible), contains all of the elements of independent Claim 1, that claim is believed allowable over the cited art. Since

each of independent Claims 15, 29 and 42 recites a feature similar or identical to the above-discussed feature recited in Claim 1, Claims 15, 29 and 42 are also believed allowable for at least the same reasons as pertain to Claim 1.

A review of the other art of record, including *Fujii*, has failed to reveal anything which, in Applicants' opinion, would remedy the deficiencies of the art discussed above, as references against independent Claims 1, 15, 29 and 42. Those claims are therefore believed patentable over the art of record.

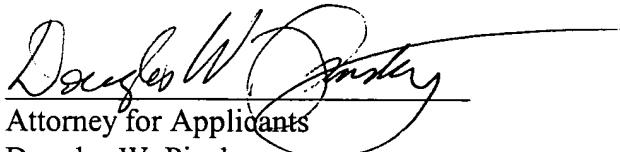
The other rejected claims in this application are each dependent from one or another of the independent claims discussed above and are therefore believed patentable for at least the same reasons. Since each of these dependent claims is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

Applicants submit that this Amendment After Final Rejection clearly places the subject application in condition for allowance. This Amendment was not presented earlier because Applicants believed that the prior Amendment placed the subject application in condition for allowance. Accordingly, entry of the instant Amendment, as an earnest attempt to advance prosecution and reduce the number of issues, is requested under 37 C.F.R. § 1.116.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,



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